

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/04-01/07**
Date: **8 February 2022**

TRIAL CHAMBER II

Before: Judge Chang-ho Chung, Presiding Judge
Judge Péter Kovács
Judge María del Socorro Flores Liera

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA***

Public

**Decision on the Application for Resumption of Action brought by family members of
deceased Victim a/0273/09**

To be notified, in accordance with regulation 31 of the Regulations of the Court, to:

Legal Representatives of Victims

Mr Fidel Nsita Luvengika

Counsel for the Defence

Mr David Hooper

Ms Caroline Buisman

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

Trial Chamber II of the International Criminal Court (the ‘Chamber’), in the case of *The Prosecutor v. Germain Katanga* (the ‘Katanga case’), having regard to article 75 of the Rome Statute, rules 85 and 94 of the Rules and Procedure and Evidence, and regulation 88 of the Regulations of the Court, issues this Decision on the Application for Resumption of Action brought by family members of deceased Victim a/0273/09 (the ‘Decision’).

I. PROCEDURAL HISTORY

1. On 24 March 2017, the Chamber issued the Order for Reparations pursuant to Article 75 of the Statute (‘Reparations Order’),¹ granting victim status for the purposes of reparations to 297 applicants, including Victim a/0273/09,² and ordering the award of both individual and targeted collective reparations.
2. On 8 March 2018, the Appeals Chamber issued the judgment on the appeals against the Reparation Order, upholding this Chamber’s decision with regard to the said 297 applicants, including the application of Victim beneficiary a/0273/09.³
3. On 3 November 2021, the Legal Representative of Victims (LRV) filed an application requesting that a family member of deceased Victim a/0273/09 (‘Applicant’) be authorised to resume the action brought by the said victim (‘Application’).⁴
4. The Defence filed no submissions on the Application.

II. ANALYSIS

5. The Chamber notes that, provided the applicable conditions are met, the right to the reparations awarded to victims who have since died may be transferred to persons appointed as successors to the action. To that end, the said person must establish the death of the victim beneficiary, his or her family relationship with the victim, and his or her appointment by family members granting him or her authority to act on behalf of the victim. Once these conditions have been met, the successor in the action brought by the deceased victim becomes entitled to the reparations awarded.⁵

¹ Order for Reparations Pursuant to Article 75 of the Statute, 24 March 2017, [ICC-01/04-01/07-3728-tENG](#), p.118.

² Reparations Order Annex II, ICC-01/04-01/07-3728-Conf-Exp-AnxII, paras 359-368.

³ Public Redacted Judgment on the appeals against the order of Trial Chamber II of 24 March 2017 entitled “Order for Reparations pursuant to Article 75 of the Statute”, 8 March 2018, [ICC-01/04-01/07-3778-Red](#).

⁴ Demande de reprise de l’action introduite par la victime a/0273/09, 20 January 2022, ICC-01/04-01/07-3894-Conf, with confidential *ex parte* Annex 1 and confidential redacted version *ex parte* Annex 1. A public redacted version of the Application was filed on the same date ([ICC-01/04-01/07-3894-Red](#)) (‘Application’).

⁵ Decision on the Application for Resumption of Action brought by family members of deceased victim a/0195/08, 9 November 2021, [ICC-01/04-01/07-3891](#), para.5.

6. The Chamber notes that the Applicant who is seeking to resume the action brought by deceased Victim a/0273/09 submitted, through the LRV, a document signed by seven family members mandating one of them to act on behalf of deceased Victim a/0273/09,⁶ and a death certificate of Victim a/0273/09.⁷ These documents are further supplemented by a copy of the identification document of the said Applicant and those of six family members that attended the family meeting.⁸

7. The Chamber further notes that the Applicant did not submit any document to establish the family relationship with the deceased Victim a/0273/09.⁹ The Chamber recalls, however, that when applicants cannot produce a document, such as a relationship certificate kinship, the presentation of any other document allowing them to ascertain the veracity of the allegations contained in their application is also sufficient to establish the relationship with the deceased victim.¹⁰ In accordance with its jurisprudence,¹¹ the Chamber may accept a statement signed by at least two credible witnesses as sufficient proof to establish the relationship between the deceased beneficiary victim and the applicant. In the present case, after having analysed the Application and the underlying documents indicating the Applicant's kinship to the deceased Victim a/0273/09 and featuring signatures of six family members, the Chamber considers that it is able to ascertain the relationship between the Applicant and the deceased Victim a/0273/09.

8. In the light of the foregoing, the Chamber finds that all the information contained in the Application relating to Victim a/0273/09 is sufficient to establish (i) the death of Victim a/0273/09, (ii) the family relationship between deceased Victim a/0273/09 and the Applicant and (iii) that the Applicant has been duly mandated by the family of Victim a/0273/09 to continue the action brought before the Court by deceased victim.

9. Accordingly, the Chamber rules that the Applicant becomes entitled, on behalf of deceased Victim a/0273/09, to the collective reparations awarded to the victim still pending implementation, in accordance with the modalities proposed by the Trust Fund for Victims and as approved by the Chamber.

⁶ ICC-01/04-01/07-3894-Conf-Exp-Anx1, p. 2.

⁷ ICC-01/04-01/07-3894-Conf-Exp-Anx1, p. 3.

⁸ ICC-01/04-01/07-3894-Conf-Exp-Anx1, pp. 4-7.

⁹ See also Application, [ICC-01/04-01/07-3894-Red](#), para. 16.

¹⁰ Décision relative aux demandes de reprise des actions introduites par les victimes a/0278/09 et a/0397/08, 23 October 2020, ICC-01/04-01/07-3866-Conf, para. 15.

¹¹ See, for instance, Décision relative aux demandes de reprise d'instance introduites par le Bureau du conseil public pour les victimes au nom des victimes a/0117/09 et a/0351/09, 18 July 2018, ICC-01/04-01/07-3803-Conf, para. 9.

10. The Chamber recalls, lastly, that the protective measures granted to the victim i.e., anonymity vis-à-vis the public, also apply to the successor in the action brought by Victim a/0273/09.

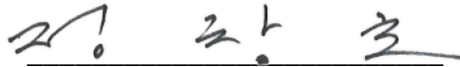
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

GRANTS the Application relating to Victim a/0273/09;

DECIDES that the person mandated by the family of deceased Victim a/0273/09 is the new holder of the right to the collective reparations awarded in the instant case still pending implementation; and

RECALLS that the above-mentioned authorized person is entitled to anonymity vis-à-vis the public.

Done in both English and French, the English version being authoritative.



Judge Chang-ho Chung, Presiding Judge



Judge Péter Kovács



Judge María del Socorro Flores Liera

Dated this Tuesday, 8 February 2022

At The Hague, The Netherlands